



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FWP/164106

PRELIMINARY RECITALS

Pursuant to a petition filed February 19, 2015, under Wis. Admin. Code § HA 3.03(4) (*This subprogram no longer exists.), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on March 30, 2015, at Racine, Wisconsin.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare (FS) benefits for failing to meet Able-Bodied Adult without Dependent (ABAWD) work requirements.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Rhonda Kramer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

Also Appearing:

Trina Brown – FSET Supervisor
Duzhara Oquendo – Case Manager

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Racine County.

2. On October 17, 2014 the petitioner completed a FoodShare (FS) renewal. On October 20, 2015 the petitioner completed the interview portion of his FS renewal. The petitioner is an able-bodied adult without dependent.
3. On October 21, 2014 the agency sent the petitioner an About Your Benefits Notice and an FSET referral letter.
4. On October 27, 2014 the agency sent the petitioner an initial letter and e-mail explaining that they had set up a December 1, 2014 FSET appointment.
5. The petitioner failed to call or show for the December 1, 2014 FSET appointment.
6. On December 2, 2014 the agency sent the petitioner an initial letter and e-mail explaining they set another appointment for him for December 22, 2014. The agency also called the petitioner and left him a voicemail telling him about this appointment.
7. The petitioner failed to call or show for the December 22, 2014 FSET appointment.
8. On December 23, 2014 the agency sent the petitioner a final urgent FSET letter and left him a voicemail alerting him of his January 29, 2015 FSET appointment.
9. The petitioner failed to call or show for his January 29, 2015 appointment.
10. On January 30, 2015 the agency sent the petitioner a second final urgent FSET notice and left him a voicemail alerting him of his February 10, 2015 FSET appointment.
11. The petitioner failed to call or show for his February 10, 2015 FSET appointment.
12. On February 23, 2015 the agency sent the petitioner notice stating that they were terminating his FS benefits for failing to participate in the FSET program.

DISCUSSION

Effective July 1, 2014, Wisconsin began the Able-Bodied Adults without Dependents (ABAWD) policy in Kenosha, Racine and Walworth counties. *FoodShare Wisconsin Handbook (FSH) §3.17.1.2*. This will be implemented statewide as of April 1, 2015. *Id.*

Under ABAWD rules, childless, able-bodied adults must either meet ABAWD work requirements or be exempt from the work requirement in order to receive FoodShare benefits. *FSH §3.17.1.1*. ABAWDs who are not exempt and who do not meet the work requirement are only allowed to receive 3 full months of time-limited benefits in a 36-month period. *Id.*

A person is considered an ABAWD, if that person is:

- ...
- 18 to 49 years in age*;
- Able to work;
- Not residing in a household with a child under age 18 (regardless of the individual's relationship to the child, whether the child is included in the individual's FS assistance group, or the child's FS eligibility status); and
- Not pregnant.
- ...

FSH §3.17.1.4.

An ABAWD may be exempt from work requirements if the person:

1. Is determined unfit for employment, which includes someone who is:
 - a. Receiving temporary or permanent disability benefits from the government or a private source;
 - b. Mentally or physically unable to work, as determined by the IM agency;

- c. Verified as unable to work by a statement from a health care professional or social worker;
2. Is responsible for the care of a child under age 6 or caring for an incapacitated person, either of which live outside the home;
 3. Is receiving Unemployment Compensation (UC), or has applied for UC and is complying with UC work requirements;
 4. Is regularly participating in an alcohol or other drug addiction (AODA) treatment or rehabilitation program;
 5. Is a student of higher education and is otherwise eligible for FS ([3.15.1](#));
 6. Is a full-time high school student age 18 or over;
 7. Is receiving Transitional FS benefits; or
 8. Is meeting the ABAWD work requirement.
- FSH §3.17.1.5.*

An ABAWD meets the ABAWD work requirement if one of the following applies:

1. Working a minimum of 80 hours per month. Use converted work hours if paid weekly or bi-weekly;
 2. Participating and complying with an allowable work program at least 80 hours per month; * [includes FSET]
 3. Both working and participating in an allowable work program for a combined total of at least 80 hours per month; or
 4. Participating and complying with the requirements of a workfare program.
- FSH, §13.17.1.7.*

If not exempt from work requirements each FoodShare household member must register for work at the time of application and review. *FSH, §3.16.1.4.* As just noted, a person may meet the work requirement by participating in the FoodShare Employment and Training (FSET) program. *FSH, §3.17.1.17.*

I am declining to reverse this discontinuance of Petitioner's FoodShare. The petitioner failed to call or show up for four separate FSET appointments. The petitioner states that he called on the agency to explain that he could not make any of these appointments because he did not have transportation. With regard to transportation the petitioner states that his home is a 25 minute walk to the nearest bus stop. The petitioner testified that he did not have the appropriate winter clothing, and therefore could not get to the bus stop during the winter months. This is not a reasonable explanation for failing to call or show up for four different appointments. I assume that the petitioner is able to get to the grocery store to use his monthly FS benefits. It then follows that the petitioner should have been able to get to the goodwill store to purchase warm winter clothing. I also note that there are area charities that provide low income individuals with appropriate winter clothing. The petitioner's explanation, although credible, is not sufficient good cause for failing to participate in the FSET program.

CONCLUSIONS OF LAW

That the agency correctly discontinued Petitioner's FoodShare benefits for failing to meet ABAWD requirements – here FSET participation.

THEREFORE, it is

ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,
Wisconsin, this 31st day of March, 2015

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on March 31, 2015.

Kenosha County Human Service Department
Division of Health Care Access and Accountability